State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2049

Introduced by
Representatives Espinoza: Sierra

AN ACT

AMENDING SECTION 36-2801, ARIZONA REVISED STATUTES; RELATING TO MEDICAL MARIJUANA.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 36-2801, Arizona Revised Statutes, is amended to read:

36-2801. Definitions

In this chapter, unless the context otherwise requires:

1. "Allowable amount of marijuana":
   (a) With respect to a qualifying patient, means:
   (i) Two and one-half ounces of usable marijuana.
   (ii) If the qualifying patient's registry identification card states that the qualifying patient is authorized to cultivate marijuana, twelve marijuana plants contained in an enclosed, locked facility, except that the plants are not required to be in an enclosed, locked facility if the plants are being transported because the qualifying patient is moving.
   (b) With respect to a designated caregiver, for each patient assisted by the designated caregiver under this chapter, means:
   (i) Two and one-half ounces of usable marijuana.
   (ii) If the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana, twelve marijuana plants contained in an enclosed, locked facility, except that the plants are not required to be in an enclosed, locked facility if the plants are being transported because the designated caregiver is moving.
   (c) Does not include marijuana that is incidental to medical use, but is not usable marijuana.

2. "Cardholder" means a qualifying patient, a designated caregiver, a nonprofit medical marijuana dispensary agent or a independent third-party laboratory agent who has been issued and possesses a valid registry identification card.

3. "Debilitating medical condition" means one or more of the following:
   (a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, OPIOID USE DISORDER, AUTISM SPECTRUM DISORDER or agitation of Alzheimer's disease or the treatment of these conditions.
   (b) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:
   (i) Cachexia or wasting syndrome.
   (ii) Severe and chronic pain.
   (iii) Severe nausea.
   (iv) Seizures, including those characteristic of epilepsy.
   (v) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis.
(c) Any other medical condition or its treatment added by the department pursuant to section 36-2801.01.

4. "Department" means the department of health services or its successor agency.

5. "Designated caregiver" means a person who:
   (a) Is at least twenty-one years of age.
   (b) Has agreed to assist with a patient's medical use of marijuana.
   (c) Has not been convicted of an excluded felony offense.
   (d) Assists not more than five qualifying patients with the medical use of marijuana.
   (e) May receive reimbursement for actual costs incurred in assisting a registered qualifying patient's medical use of marijuana if the registered designated caregiver is connected to the registered qualifying patient through the department's registration process. The designated caregiver may not be paid any fee or compensation for service as a caregiver. Payment for costs under this subdivision does not constitute an offense under title 13, chapter 34 or under title 36, chapter 27, article 4.

6. "Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder.

7. "Excluded felony offense" means:
   (a) A violent crime as defined in section 13-901.03, subsection B, that was classified as a felony in the jurisdiction where the person was convicted.
   (b) A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted but does not include:
      (i) An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten or more years earlier.
      (ii) An offense involving conduct that would be immune from arrest, prosecution or penalty under section 36-2811, except that the conduct occurred before December 14, 2010 or was prosecuted by an authority other than the state of Arizona.

8. "Independent third-party laboratory" means an entity that has a national or international accreditation and that is certified by the department to analyze marijuana cultivated for medical use.

9. "Independent third-party laboratory agent" means an owner, employee or volunteer of a certified independent third-party laboratory who is at least twenty-one years of age and who has not been convicted of an excluded felony offense.

10. "Marijuana" means all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant.
11. "Medical use" means the acquisition, possession, cultivation, manufacture, use, administration, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

12. "Nonprofit medical marijuana dispensary" means a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation.

13. "Nonprofit medical marijuana dispensary agent" means a principal officer, board member, employee or volunteer of a nonprofit medical marijuana dispensary who is at least twenty-one years of age and has not been convicted of an excluded felony offense.

14. "Physician" means a doctor of medicine who holds a valid and existing license to practice medicine pursuant to title 32, chapter 13 or its successor, a doctor of osteopathic medicine who holds a valid and existing license to practice osteopathic medicine pursuant to title 32, chapter 17 or its successor, a naturopathic physician who holds a valid and existing license to practice naturopathic medicine pursuant to title 32, chapter 14 or its successor or a homeopathic physician who holds a valid and existing license to practice homeopathic medicine pursuant to title 32, chapter 29 or its successor.

15. "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

16. "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, a registered designated caregiver, a registered nonprofit medical marijuana dispensary agent or a registered independent third-party laboratory agent.

17. "Usable marijuana":
   (a) Means the dried flowers of the marijuana plant, and any mixture or preparation thereof.
   (b) Does not include:
      (i) The seeds, stalks and roots of the plant.
      (ii) The weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

18. "Verification system" means a secure, password-protected, web-based system that is established and maintained by the department and that is available to law enforcement personnel and nonprofit medical marijuana dispensary agents on a twenty-four-hour basis for verifying registry identification cards.

19. "Visiting qualifying patient" means a person:
(a) Who is not a resident of Arizona or who has been a resident of Arizona less than thirty days.
(b) Who has been diagnosed with a debilitating medical condition by a person who is licensed with authority to prescribe drugs to humans in the state of the person's residence or, in the case of a person who has been a resident of Arizona less than thirty days, the state of the person's former residence.

20. "Written certification" means a document dated and signed by a physician, stating that in the physician's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. The physician must:
(a) Specify the qualifying patient's debilitating medical condition in the written certification.
(b) Sign and date the written certification only in the course of a physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history.

Sec. 2. Requirements for enactment; three-fourths vote
Pursuant to article IV, part 1, section 1, Constitution of Arizona, section 36-2801, Arizona Revised Statutes, as amended by this act, is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.